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Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego CA 92121-1714

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OFFICE OF PETITIONS

In re Application of:	:
Paul E. Peterzell et al.	:
Application No. 10/020,607	:
Filed: December 10, 2001	:
Attorney Docket No. 010073U2	:
Title: LOCAL OSCILLATOR LEAKAGE	:
CONTROL IN DIRECT CONVERSION	:
PROCESSES	:

DECISION ON PETITION

This is a decision on the petition filed January 9, 2004, pursuant to 37 C.F.R. §1.137(b) to revive the above-identified application, which is properly treated as a petition under 37 C.F.R. 1.181(a) to withdraw the holding of abandonment¹.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed March 31, 2003, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 2, 2003. A Notice of Abandonment was mailed on December 16, 2003.

With the instant petition, petitioner has submitted an RCE, a response to the final rejection, a three-month extension of time, and a preliminary amendment. All bear a certificate of mailing dated September 30, 2003.

37 C.F.R. § 1.8 sets forth, in part:

§ 1.8 Certificate of mailing or transmission.
(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time

¹ The petition fee has been refunded to petitioner's Deposit Account.

will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

- (1) Correspondence will be considered as being timely filed if:
 - (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
 - (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
 - (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
 - (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The RCE filing fee and the three-month extension of time have been charged to Petitioner's Deposit Account, as authorized in the petition.

The application file is being forwarded to Technology Center 2800 for further processing of the RCE and the amendment submitted concurrently with this petition.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.



Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office